

Terms and Conditions of Sale

§ 1 Scope, Form

(1) These General Terms and Conditions of Sale (**GTCS**) apply to all business relations of TRADIUM GmbH (**TRADIUM** or **We** or **Us**) with customers (respectively a **Buyer**) unless agreed otherwise in a separate written agreement by and between TRADIUM and the Buyer. However, these GTCS apply only where the Buyer is a business within the meaning of Sec. 14 of the German Civil Code (*Bürgerliches Gesetzbuch* – BGB), a legal person under public law, or a special fund under public law.

(2) The GTCS apply specifically to contracts regarding the sale and/or delivery of movable items (Goods) regardless as to whether We manufacture the Goods ourselves or purchase these from suppliers (Secs. 433, 650 BGB). Unless otherwise agreed, the GTCS apply as in effect at the time of the Buyer placing their order, in any case in the text form last communicated to the Buyer as a framework agreement, even for future contracts of similar nature without our having to point out the validity of the GTCS again in the individual case.

(3) These GTCS apply exclusively. Divergent, opposing or complementing General Terms and Conditions on the part of the Buyer will only become integral to the contract if and insofar as We expressly agreed to their validity in writing. This requirement of consent applies in every case, for example, even if and where the Buyer points to their General Terms and Conditions in the context of the order confirmation and We do not object to this expressly.

(4) Individual agreements (for example, general contracts of delivery, quality assurance agreements) and details supplied in our order confirmation take precedence over these GTCS. In the case of doubt, commerce clauses are to be interpreted in accordance with the Incoterms® as issued by the Paris International Chamber of Commerce (ICC) as in effect at the time of concluding the contract.

(5) Legally relevant declarations and notifications on the part of the Buyer that refer to the contract (e.g., deadlines, reminder, rescission) must be issued in writing and signed. Any written form requirement in the meaning of these GTCS includes both the written and signed form as well as text form (e.g., letter, e-mail, fax). Statutory form requirements and additional documentation, particularly if there are doubts as to the proof of identity of the declaring party, remain unaffected by these GTCS.

(6) Information relative to the validity of statutory provisions is provided for clarifying purposes only. Even without such clarification, the statutory provisions apply unless otherwise amended directly or excluded expressly in these GTCS.

§ 2 Conclusion of the Contract

(1) Our offers are subject to confirmation and are non-binding. This applies even if We provided the Buyer in advance or in conjunction with the initiation of business with promotional materials, catalogues, price lists, product lists, technical documentation (such as drawings, plans, computations, calculations, references to DIN standards), other product descriptions or documents, even if provided in electronic form, to which We reserve the title or copyrights.

(2) The Buyer's order of the Goods is deemed a binding contractual offer. Unless the order stipulates otherwise, We are entitled to accept this contractual offer within a period of two (2) weeks as from when We receive it.

(3) Acceptance of the order may either be declared in writing (e.g., by order confirmation) or by delivery of the Goods to the Buyer.

§ 3 Delivery Period and Delay in Delivery

(1) The delivery deadline is agreed individually, or We will specify the delivery period at the time of accepting the order. Where this is not the case, the delivery deadline equals approximately two (2) weeks as from the conclusion of the contract.

(2) Insofar as We are unable to meet binding delivery deadlines for reasons for which We cannot be held responsible (Unavailability of Performance), We will notify the Buyer of this immediately and at the same time will communicate the presumed new delivery deadline. Where the performance remains unavailable even within the new delivery period, We are entitled to rescind the contract either in full or in part; We will immediately reimburse any consideration already rendered by the Buyer. The Unavailability of Performance applies for example to the late delivery of materials to Us from Our supplier where We concluded a matching covering transaction; to disruptions in the supply chain, for example due to force majeure; or where, as the individual case may be, any procurement is not Our obligation.

(3) Statutory provisions govern when delay in delivery on our part has occurred. However, in any case a reminder by the Buyer is required. Where We are in default of delivery, the Buyer may demand a lump-sum reimbursement for their damage caused by the delay. The lump-sum reimbursement for each completed calendar week in default totals 0.5 % of the net price (Delivery Value), however in total no more than 5 % of the Delivery Value of the Goods that were delayed. We have the right to prove that the Buyer sustained no damage or that the damage that was sustained was significantly lower than the above lump sum.

(4) The Buyer's rights in accordance with Clause 8 of these GTCS as well as Our statutory rights, and here in particular where a performance obligation is excluded (e.g., due to the impossibility or unreasonableness of the performance and/or subsequent performance) remain unaffected.

§ 4 Delivery, Passing of Risk, Acceptance, Default of Acceptance

(1) The Goods are delivered ex works which equally constitutes the place of fulfillment for the delivery and any possible subsequent performance. At the request and the cost of the Buyer, the Goods will be dispatched to an alternative destination (Sale by Dispatch). Unless otherwise agreed, We are entitled to choose the mode of shipment (and here in particular the carrier, the transport route and the packaging) ourselves.

(2) The risk of accidental loss and of accidental deterioration of the Goods passes to the Buyer at the time of handover to the Buyer at the latest. However, for the Sale by Dispatch, the risk of accidental loss or of accidental deterioration of the Goods as well as the risk of delay already passes to the Buyer upon delivery of the Goods to the forwarding agent, the carrier or any person or institution named to execute the shipment. If an acceptance has been agreed, such acceptance is decisive for the passing of risk. Moreover, the statutory provisions on contracts for works and services (*Werkvertragsrecht*) also govern the agreed acceptance. Handover or acceptance shall be deemed to have taken place even if we the Buyer is in default of acceptance.

(3) Where the Buyer is in default of accepting delivery, fails to perform an act of cooperation or where our delivery is delayed for other reasons for which the Buyer is responsible (such as delaying the delivery at the Buyer's request), We are entitled to request compensation for the resulting damage, including any additional expenses (e.g., storage costs). For this We quantify the lump-sum compensation in the amount of 0.5 % of the invoice amount per calendar week (Lump Sum) starting as from the delivery deadline or – in the absence of a delivery deadline – upon communication of the Goods' readiness for dispatch.

(4) Proof demonstrating greater damage and our statutory claims (especially compensation of additional expenses, reasonable remuneration, termination) remain unaffected; the Lump Sum, however, is to be counted towards additional money claims. The Buyer has the right to prove that no damage was sustained, or that the damage that We sustained was significantly lower than the above Lump Sum.

§ 5 Pricing and Terms of Payment

(1) Unless otherwise agreed in the individual case, our prices as current at the time of concluding the contract, ex warehouse, apply, meaning delivery from our business headquarters on Gerauer Strasse 18, 60528 Frankfurt am Main, plus statutory value added tax and exclusive of packaging, transportation costs and insurance costs.

(2) Discounts for prompt payments require a special written agreement.

(3) For the Sale by Dispatch (Clause 4 (1)), the Buyer bears the transportation costs ex warehouse as well as the cost of any transport insurance the Buyer requests. Where the Buyer does not issue any special instructions, We are entitled to cover the transportation and precious metal business on their behalf and for their account by an insurance of specie in transit. No forwarding, logistics and warehouse insurance may be taken out at our expense. On the Buyer's request, the consignment will be insured at their expense by Us also against theft, breakage, and damage caused by fire and water as well as other insurable risks. Possible duties, fees, taxes and other public levies are for the Buyer.

(4) Unless a separate individual arrangement stipulates otherwise, the purchase price is due within 14 days as from invoicing and delivery or acceptance of the Goods and is to be remitted to the bank account specified in the invoice (Term of Payment); the Buyer's right in accordance with Sec. 320 BGB remains unaffected. However, We have the right at any point in time to carry out a delivery either in full or in part against advance payment only, even if the business relationship is ongoing. We will specify such reservation together with the order confirmation at the latest.

(5) Changes to our banking details known to the Buyer will be communicated to the Buyer by separate letter only (Notification Letter).

Changes to our banking details which may result directly from an invoice sent to the Buyer without having received such a Notification Letter are invalid. In this case, the Buyer is obliged to contact Us and to inform Us of the changed banking details. Payments which the Buyer makes in the absence of having received a Notification Letter to a new bank account communicated to them in an invoice fail to satisfy the requirements for fulfillment towards Us and are at the Buyer's risk where the Buyer did not verify the new bank account details beforehand with Us by telephone and received confirmation that this is our new bank account. The Buyer must have received the respective confirmation in the least also in text form (Sec. 126b BGB).

(6) Where the above payment deadline has passed, the Buyer is in default. The purchase price is subject to interest of the respectively valid statutory rate of default interest for the duration of the default. We reserve the right to enforce additional damages for failure to make the payment on time. When dealing with merchants *inter se*, Our right to demand interest on a commercial transaction as of the due date (Sec. 353 of the German Commercial Code (Handelsgesetzbuch - HGB)) remains unaffected.

(7) The Buyer has offsetting rights or rights of retention only to the extent as their claim has been established as final and absolute by a court of law or is undisputed. For defects of delivery, the Buyer's rights, especially in accordance with Clause 7 (6) second sentence of these GTCS, remain unaffected.

(8) Where it becomes apparent following the conclusion of the contract (due to the instigation of insolvency proceedings, for example) that our claim for the purchase price is at risk by virtue of the Buyer's lack of solvency, We have the right according to statutory provisions to refuse our performance and – possibly after setting of a deadline – to rescind or terminate the contract (Sec. 321 BGB). For contracts specifying the manufacture of custom-made items (customer order) We may declare our rescission with immediate effect; the statutory regulations pertaining to the dispensability of setting a deadline remain unaffected.

§ 6 Retention of Title

(1) We reserve the title to the sold Goods until complete payment of all current and future claims of ours under the purchase contract and an ongoing business relation (Secured Claims).

(2) The Goods which are subject to a retention of title must neither be pledged to third parties nor be transferred as security until the Secured Claims have been paid in full. The Buyer must inform Us immediately in writing if insolvency proceedings have been filed against the Buyer's assets or to the extent that third parties exercise any rights to the Goods that are our property (e.g., attachments).

(3) Until further notice, the Buyer is entitled to resell and/or process the Goods that are subject to a retention of title during the ordinary course of business in accordance with lit. (c) below. In this case, the provisions of the following lit. (a) - (d) apply in addition:

(a) The retention of title covers the full value of the products resulting from the processing, mixing or combination of our Goods, where We are considered to be the manufacturer. Where in the case of processing, mixing or combining with third-party goods their right of title remains in effect, We acquire co-ownership in relation of the goods' invoice value to the processed, mixed or combined goods. Otherwise, the same applies to the resulting product as does to the Goods delivered under the retention of title.

(b) The Buyer already assigns to Us any claims resulting from reselling the Goods or the product against third parties in their entirety or in the amount of our potential co-ownership share pursuant to the above lit. (a) as security. We accept such assignment. The Buyer's obligations named under para. 2 apply also to such assigned claims.

(c) The Buyer remains authorised to collect the claims in addition to Us. We undertake to not collect the claims for as long as the Buyer meets their payment obligations towards Us; their performance shows no defect; and We do not enforce the rights under the retention of title by exercising a statutory right. However, if this is the case, We may demand that the Buyer discloses the claims assigned and their debtors to Us; provides Us with all the necessary details required for collection; hands Us the respective documents; and informs the debtors (third parties) of such assignment. Moreover, in this case, We are entitled to revoke the Buyer's authorisation to resell and process the Goods which are subject to the retention of title.

(d) Where the realisable value of the securities exceeds our Secured Claims by more than 10 %, We will release securities at the request of the Buyer at our discretion.

§ 7 Buyer's Claims for Defects

(1) The Buyer's rights in the event of defects in quality and title (including, but not limited to: wrong or reduced delivery volumes and improper assembly/ installation or deficient assembly instructions) are subject to statutory provisions unless otherwise specified below. Statutory provisions regarding the purchase of consumer goods (Secs. 474 et seqq. BGB) and the Buyer's rights under separately issued guarantees, especially from the manufacturer, remain unaffected in all cases.

(2) The basis for our liability for defects is mainly the agreement pertaining to the quality and the intended use of the Goods (inclusive of appearances and instructions). A quality agreement within this meaning encompasses all product descriptions and manufacturer details which constitute an element of the individual contract or which We had publicly disclosed at the time the contract had been concluded (especially through catalogues or on our homepage). In the absence of an agreed quality, it is for the law to assess whether a defect applies or not (Sec. 434 (3) BGB). Public statements made on the part of the manufacturer or on their behalf, especially in advertising or on the label of the Goods, take precedence over statements of third parties.

(3) On principle, We are not liable for defects which the Buyer has knowledge of at the time of the conclusion of the contract or has no knowledge of due to gross negligence (Sec. 442 BGB). Furthermore, the Buyer's claims for defects require that they fulfilled their legal duty to examine and obligation to give notice of defects (Secs. 377, 381 HGB). Building materials and other goods to be fitted or otherwise processed need to be examined in any case immediately prior to such processing. Where at the time of delivery, of examination or at any other later point in time a defect occurs, We must be notified immediately of this in writing. In any case, obvious defects must be indicated in writing within fourteen (14) days as from receiving the Goods and any defects that remain undetected during the examination must be indicated within the same period as from being discovered. Where the Buyer fails to perform a proper examination and/or notification of defects, our liability relating to the defect which was not indicated, not indicated in time, or not indicated properly is excluded in accordance with statutory provisions. This applies even then to Goods intended for fitting, attachment or installation where the defect, due to the breach of one of these obligations became obvious only after the respective processing; in this case, the Buyer has in particular no right to the reimbursement of the respective costs (cost of removal and fitting).

(4) Where the delivered Goods are defective, We may initially choose whether to remedy the defect (subsequent improvement) or deliver a non-defective item (replacement delivery). Where the type of subsequent performance chosen by Us is unreasonable for the Buyer as the case may be, they may reject it. Our right to refuse subsequent performance in accordance with statutory provisions remains unaffected.

(5) We are entitled to make the owed subsequent performance contingent upon the Buyer paying the due purchase price. However, the Buyer has the right to retain such share of the purchase price which is reasonable in relation to the defect.

(6) The Buyer must grant Us the necessary time and opportunity required to fulfil the owed subsequent performance, and in particular must hand the queried Goods to Us for the purpose of inspection. In the case of a replacement delivery the Buyer must return the defective Goods to Us at our request in accordance with statutory provisions; however, the Buyer may not claim they be returned. The subsequent performance encompasses neither the dismantling, the removal or deinstallation of the defective Goods, nor the fitting, attachment or installation of defect-free Goods if we were not originally obligated to perform these services; claims on the part of the Buyer for the reimbursement of the respective costs (cost of removal and fitting) remain unaffected.

(7) We will bear or reimburse the required expenses for the inspection and subsequent performance, and here in particular the cost of transportation, road costs, the cost of labour and materials as well as possibly the cost of removal and installation in accordance with applicable statutory provisions and these GTCS if a defect *de facto* exists. Otherwise, We may demand from the Buyer reimbursement of costs incurred due to the unjustified request for the remedy of a defect if the Buyer knew or could have recognised that, in fact, there was no defect.

(8) In urgent cases, e.g., if the operational safety is at risk or to avert excessive damage, the Buyer has the right to remedy the defect themselves and to demand compensation from Us for the objectively required expenses for this. We must be informed immediately of any such rectification of defects by the Buyer, if possible, prior thereto. The Buyer's right to rectify defects themselves does not apply if We were entitled to respectively refuse such subsequent performance according to statutory provisions.

(9) If a deadline to be issued by the Buyer for the subsequent performance expired to no avail or may be dispensed with according to statutory provisions, the Buyer may rescind the contract of sale or reduce the purchase price in accordance with statutory provisions. However, the right to rescind the contract does not apply to cases of minor defects. Claims on the part of the Buyer for compensation in accordance with Sec. 445a (1) BGB are excluded unless the last contract of the supply chain marks a contract for the purchase of consumer goods (Secs. 478, 474 BGB) or a consumer contract for the provision of digital products (Secs. 445c second sentence, 327 (5), 327u BGB). Even in the case of defective Goods, claims on the part of the Buyer for compensation for damages or for the reimbursement of futile expenses (Sec. 284 BGB) apply only subject to the following Clauses 8 and 9.

§ 8 Other Liability

(1) Unless otherwise stipulated under these GTCS including the following provisions, We will be liable in the case of a breach of contractual and non-contractual duties in accordance with statutory provisions.

(2) We are liable to compensate for damages – for any legal reason whatsoever – in the case of intent and gross negligence under liability for fault. In cases of ordinary negligence, our liability, subject to statutory limitations (e.g., diligence in exercising one's own matters; minor breach of duty) only extends to

(a) damage resulting from harm to life, body or health;

(b) damage resulting from the breach of a material contractual obligation (obligation whose fulfilment facilitates the proper performance of the contract sine qua non, compliance with which the contractual party relies upon and may rely upon on a regular basis); in this case, however, our liability is limited to the compensation of the typically foreseeable damage that may occur.

(3) The limitations of liability resulting from para. 2 apply even towards third parties as well as for breaches of duty caused by persons (even to their advantage) for whose fault We are responsible according to statutory provisions. They do not apply insofar as a defect was fraudulently concealed or a warranty was assumed for the quality of the Goods and for claims on the part of the Buyer under the German Product Liability Act.

(4) The Buyer may only rescind or terminate the contract for a breach of obligation which does not consist of a defect where We are liable for the breach of duty. A free right of termination on behalf of the Buyer (especially pursuant to Secs. 650, 648 BGB) is excluded. In other respects, the statutory requirements and their legal consequences apply.

§ 9 Statute of Limitation

(1) By way of derogation from Sec. 438 (1) no. 3 BGB the general limitation period for claims resulting from defects in quality and title is one year as from delivery. Where an acceptance has been agreed, the limitation period commences as from the acceptance.

(2) Where the Goods are an edifice or an object which has been used in accordance with its customary purpose for an edifice which then caused their defectiveness (construction material), the limitation period according to statutory provisions equals five (5) years as from delivery (Sec. 438 (1) no. 2 BGB). Further special statutory regulations regarding limitation (especially Sec. 438 (1) no. 1, (3), Secs. 444, 445b BGB) remain unaffected.

(3) The above limitation periods under the Sales Convention apply equally to contractual and non-contractual claims for damages of the Buyer which are due to a defect of the Goods unless application of the regular statutory limitation period (Secs. 195, 199 BGB), as the individual case may be, would lead to a shorter limitation period. Claims for compensation on the part of the Buyer according to Clause 8 (2) first sentence and second sentence (a) as well as under the German Product Liability Act become time-barred only in accordance with statutory limitation periods.

§ 10 Choice of Law and Jurisdiction

(1) The law of the Federal Republic of Germany applies to these GTCS and the contractual relationship by and between TRADIUM and the Buyer, excluding international uniform law, and here in particular the UN Sales Convention.

(2) If the Buyer is a merchant as defined under the German Commercial Code (Handelsgesetzbuch), a legal person under public law or a special fund under public law, the courts at our business headquarters, Frankfurt am Main have exclusive jurisdiction directly or indirectly for any

and all disputes arising from the contractual relationship. The same applies where the Buyer is a business within the meaning of Sec. 14 BGB. However, as a rule, We also have the right to sue in all cases at the place of fulfilment of the delivery obligation under these GTCS or under a prioritized individual arrangement or at the Buyer's place of general jurisdiction. Statutory provisions of a higher priority, especially regarding exclusive jurisdictions, remain unaffected.

§ 11 No Waiver

Where the Buyer breaches individual provisions of these GTCS or of the contract and where We do not penalise such a breach, this does not constitute a waiver on our part in terms of accepting the breaching of a provision by the Buyer and neither does this present the waiver of the breached regulation by way of a behaviour that might imply our acceptance.

§ 12 Severability Clause

Should current or future provisions of these GTCS or of the contract be or become fully or partially void, legally invalid or unenforceable or lose their legal validity or enforceability at a later point in time, this will not affect the validity of the remaining provisions under these GTCS and/or of the contract. Sec. 139 BGB expressly does not apply. The same applies where it emerges that these GTCS and/or the contract contain an omission. Where the void, ineffective or unenforceable provision is a provision which does not serve the purpose of protecting a Party, the Parties are to agree in its stead to a reasonable arrangement which approximates as far as is legally permissible that which the Parties intended or which they would have intended in view of the purpose and meaning of these GTCS and/or of the contract had they recognised the invalidity, ineffectiveness or the omission. Where the ineffectiveness or the nullity or the unenforceability of a provision is due to a measure of performance or time established therein (period or deadline), such legally permissible measure is deemed agreed which comes closest to the ineffective or unenforceable provision. Also, the respective legal regulation replaces the void, invalid or unenforceable provision.